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In re Application of :
PETERSEN, Michael *et al* :
Application No.: 09/763,635 :
PCT No.: PCT/EP00/05532 :
Int. Filing Date: 15 June 2000 :
Priority Date: 16 July 1999 :
Attorney's Docket No.: 4988 :
For: METHOD AND AUXILIARY DEVICE :
FOR LEASING THREADS INTO GUIDE :
ELEMENTS ... :

DECISION

The decision is in response to the papers submitted via facsimile on 16 October 2001 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 03 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497, an English translation, a surcharge fee, and a processing fee must be provided. Applicants were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 23 May 2001, applicants filed an executed declaration, a check of \$170.00 for the surcharge fee and assignment fee, and granted authorization to charge Deposit Account No. 19-2110 for any deficiencies if necessary.

On 16 October 2001, applicants filed the instant petition which was accompanied by, *inter alia*, copies of the documents purportedly filed 23 May 2001, a copy of a check receipt for \$170.00 dated "05/23/01," and a stamped postcard receipt.

DISCUSSION

Applicants submitted the instant petition via facsimile on 16 October 2001. Applicants claim that an executed declaration, an assignment, and a check of \$170.00 were submitted in response to the Form PCT/DO/EO/905 mailed 03 May 2001.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed.

The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicants included a date stamped filing receipt with the papers filed on 16 October 2001. A review of the above-identified application reveals that a signed declaration in compliance with 37 CFR 1.497 was located in the file. The declaration was dated 23 May 2001. Further, a check of financial records for the above-identified application show that a surcharge fee of \$130.00 and an assignment fee of \$40.00 was received in the USPTO on 23 May 2001.

Accordingly, the instant petition is not required to demonstrate that those papers were filed in the above-captioned application on 23 May 2001.

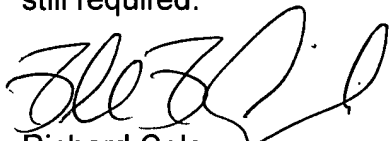
However, the Form PCT/DO/EO/905 mailed to applicants indicated that an English translation of the International Application ("IA") and a \$130.00 processing fee pursuant to 37 CFR 1.492(f) was also required. A review of the above-captioned file and the filing receipt dated "MAY 23 2001" reveal that an English translation and processing fee were not submitted on 23 May 2001. Moreover, a search of the application file did not locate an English translation. Further, a check of the transmittal letter (Form PTO-1390) reveals that Box No. 6 which indicates whether a translation of the IA into English pursuant to 35 U.S.C. 371(c)(2) was provided with the documents filed, was not checked. Therefore, it is clear that an English translation of the IA has not been provided.

The \$130.00 processing fee has been charged to Deposit Account No. 19-2110.

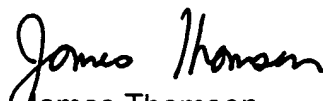
DECISION

The petition pursuant to 37 CFR 1.181 is dismissed as MOOT.

This application will be forwarded to the DO/EO/US for the mailing a Notification of Defective Response (Form PCT/DO/EO/916) indicating that a translation of the IA is still required.



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